IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)

WRIT PETITION NO. 2583 OF 2004

BETWEEN

Krishna Chandra Bariha S/o Mayadhar Bariha, aged 43 years, Occupation Assistant Teacher, posted at Primary School Jamajuda, Pithora, District Mahasamund (CG).

PETITIONER

A N D

1. The State of Chhattisgarh, through the Secretary Department of School Education, Mantralay, D.K.S. Building, Raipur (CG).

2. District Education Officer, Mahasamund (CG).

3. Collector, Mahasamund, District Mahasamund (CG).

4. Dr. Trivikram Bhoi , MLA, F-3 Ayodhya Apartment, MLA Rest House, Ring Road No.1, Raipur (CG).

5. Kailash Sahu, resident of Village Salhe Tarai, Vikas Khand Pithora, District Mahasamund (CG).

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

1. Particulars of the Petitioner :

(30)

HIGH COURT OF CHHATTISGARH AT BILASPUR
W.P. No. 2583 of 2004

Petitioner — Krishna Chandra Bariha

Versus

Respondents — The State of Chhattisgarh & others

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Mr. Sunil Sahu, counsel for the petitioner.
Ms. Deepali Pandey, Panel Lawyer for the respondents No. 1 and 2/ State.
None appears for the respondents No. 3 and 4.

ORDER

(Passed on this 27th day of February, 2007)

1. The petitioner, while working as Assistant Teacher in Primary School, Jamjuda, Pithoura, was transferred to Middle School, Khemda, Baghbahara on the same terms and conditions vide impugned transfer order dated 31.7.2004 (P/2).
2. This Court, vide interim order dated 20.09.2004, has stayed the impugned order dated 31.7.2004 (P/2) till the next date of hearing. By virtue of the interim order, the petitioner must have continued on the same place of posting.
3. Be that as it may, with the passage of time this petition has become infructuous, as period of transfer is not applicable forever. At this point of time there is no question to examine the validity of the transfer order. However, the respondents are at liberty to pass appropriate orders keeping in view the public interest and administrative exigency, without insisting on compliance of the impugned transfer order.
4. It is well settled principle of law that transfer is an incidence of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere with the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations.
5. In view of the above, this petition stands disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu